

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE:)
FAISAL KHAN) CASE NO. 24-10065-KHK
Debtor) Chapter 13
)

UNITED BANK'S OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

United Bank (“United), by counsel, hereby files its Objection to Confirmation of the Chapter 13 Plan dated February 6, 2024 (docket entry #19) filed by Debtor, and for grounds states as follows:

BACKGROUND, THE DEBT AND THE COLLATERAL

1. United is the holder of two Loans made by the Debtor.
2. The First Loan (the “First Loan”) is dated July 28, 2016 in the original principal amount of Eight Hundred Twenty-Five Thousand Dollars (\$825,000.00), secured by a Deed of Trust recorded in Deed Book 24678 at Page 1376 among the land records of Fairfax County, Virginia (the “First Deed of Trust”), which is a First Deed of Trust against property owned by the Debtor bearing an address of 9709 Georgetown Pike, Great Falls, VA 22066 (the “Property”).

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3. United has filed a Proof of Claim in this case, Proof of Claim #12, stating that as of January 15, 2024 the principal amount owed on the First Loan is Eight Hundred Eighty-Two Thousand Two Hundred Twenty and 23/100ths Dollars (\$882,220.23). Interest is owed in the amount of Two Hundred Thirty Thousand Six Hundred Forty-Nine Dollars (\$230,649.00), Late charges are owed in the amount of Four Thousand Five Hundred Thirty-Four and 55/100ths Dollars (\$4,534.55) and attorneys fees/appraisal fees are owed in the amount of Twenty-Three Thousand Nine Hundred Twenty-Nine and 89/100ths Dollars (\$23,929.89), for a total indebtedness of One Million One Hundred Forty-One Thousand Three Hundred Thirty-Three and 67/100ths Dollars (\$1,141,333.67), which continues to increase in accordance with the First Loan Documents.

4. The Second Loan (the “Second Loan”) is dated April 14, 2017 in the original principal amount of Two Hundred Thirty Thousand Dollars (\$230,000.00), secured by a Deed of Trust recorded in Deed Book 25010 at Page 816 among the land records of Fairfax County, Virginia, which is a Second Deed of Trust against the Property (the “Second Deed of Trust”).

5. United has filed a Proof of Claim in this case, Proof of Claim #13, stating that as of January 15, 2024 the principal amount owed under the Second Loan is Two Hundred Fourteen Thousand Six Hundred Fifty and 37/100ths Dollars (\$214,650.37). Interest is owed in the amount of Eighteen Thousand Four Hundred Ninety-Five and 25/100ths Dollars (\$18,495.25), Late charges are owed in the amount of Nine Hundred Sixty-Three and 09/100ths Dollars (\$963.09), for a total indebtedness of Two Hundred Thirty-Four Thousand One Hundred Eight and 71/100ths Dollars (\$234,108.71), which continues to increase in accordance with the Second Loan Documents.

6. United had scheduled for January 17, 2024 at 1:00 PM at the Fairfax County Circuit Courthouse building located at 4110 Chain Bridge Road, Fairfax, VA, a foreclosure under the terms of the First Deed of Trust. On January 15, 2024 the Debtor filed this Chapter 13 case to thwart the First Deed of Trust foreclosure by United.

OBJECTION TO CHAPTER 13 PLAN

7. United joins in the Objection to Confirmation of the Plan filed by the standing Chapter 13 Trustee (docket entry #27).

8. As the Trustee has noted in his Objection, this is the Debtor's Second Chapter 13 case, as his prior case in this court, case number 22-10879-KHK was dismissed on September 9, 2022 for failure to file a Plan or Schedules.

9. The Debtor lists his income as zero and his employment status as not employed in his Schedule I filed on February 6, 2024 as part of his Schedules (Docket Entry #18). A fundamental baseline requirement for filing Chapter 13 is that only an individual with regular income may be a Debtor under Chapter 13 (11 U.S.C. §109(a)). An individual with regular income means an individual whose income is sufficiently stable and regular to enable such individual to make payments under Chapter 13 of the Bankruptcy Code (11 U.S.C. §101(30)). It's fundamentally obvious that a Debtor who is unemployed with zero income is not "an individual with regular income" and is ineligible under Chapter 13.

10. As the Trustee has pointed out in his Objection, the Plan payment increases from One Hundred Dollars (\$100.00) per month to Thirty-Five Thousand Three Hundred Fifty-Six and 70/100ths Dollars (\$35,356.70) per month is unrealistic.

11. The Debtor filed this Chapter 13 case to thwart United's foreclosure, without verifiable income, contrary to the basic requirements of a Chapter 13 filing. On its face the Plan is both under funded and not feasible (See 11 U.S.C. §1325(a)(1), §1325(a)(6)).

12. The Plan filed by the Debtor is aspirational and based on a "wish and a prayer."

13. The Plan doesn't provide for a realistic, good faith, believable method of payment required by Chapter 13 of the Bankruptcy Code and therefore the Plan cannot be confirmed under the requirements of 11 U.S.C. §1325.

RELIEF REQUESTED

United requests: (a) this Honorable Court enter an Order sustaining United's Objection to the Chapter 13 Plan; and (b) any other relief the Court deems just and proper under the circumstances.

UNITED BANK
By Counsel

Dated: March 7, 2024

/s/ John B. Connor
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Objection to Chapter 13 Plan was sent postage prepaid first-class mail this 7th day of March 2024 to:

Faisal Khan
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(Debtor)

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/s/ John B. Connor
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